

THE FLORIDA SENATE
2023 SUMMARY OF LEGISLATION PASSED
Committee on Health Policy

CS/CS/SB 1550 — Prescription Drugs

by Fiscal Policy Committee; Health Policy Committee; and Senators Brodeur, Rodriguez, Wright, and Perry

The bill (Chapter 2023-29, L.O.F.) regulates the coverage of pharmacy benefits. The bill focuses on transparency, accountability, and participant relationships within the outpatient pharmaceutical delivery system.

For the purposes of this act, affected entities include prescription drug manufacturers, pharmacy benefit managers (PBMs), pharmacy benefits plans or programs (plans), and pharmacies. A PBM contracts to administer prescription drug benefits on behalf of a plan. As used in this act, a plan includes health maintenance organizations, health insurers, self-insured employer health plans, discount card programs, and government-funded health plans.

Price Increase Transparency and Manufacturer Reporting

Prescription drug manufacturers and nonresident prescription drug manufacturers licensed in Florida will be required to submit information on reportable drug price increases for disclosure on the Florida HealthFinder/MyFloridaRx website for public access. This information will be available for Floridians to search and compare prescription drug price increases. Additional trade secret information submitted on reportable drug price increases will be made available for governmental research purposes.

PBM Regulation and Transparency

PBMs operating in Florida will be regulated as administrators under the Florida Insurance Code. Additional requirements specific to PBM operations are provided in the bill, including, but not limited to, affiliated ownership disclosures, disclosure of contractual relationships, and compliance with and reporting about specific statutory contractual terms and conditions. Certain practices by PBMs are prohibited under the bill, such as restricting or penalizing a pharmacy or pharmacist from disclosing relevant information to a patient, governmental officials, or law enforcement; and communicating at the point-of-sale, or otherwise requiring, a cost-sharing obligation for a covered person that exceeds the lesser of the applicable amount in the covered person's plan or the usual and customary (cash) price. A contact within the Division of Consumer Services will be designated to accept complaints from consumers and pharmacies relating to PBMs. Complaints that allege conduct that may constitute a violation of the act must be investigated by the Office of Insurance Regulation.

Contracts between a PBM and a Plan

The bill requires certain provisions to be included in these contracts, such as a plan must require a PBM to reimburse network pharmacies according to a pass-through model, not spread pricing. A pass-through model means a PBM must reimburse the pharmacy the full amount the plan paid

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to the PBM for the pharmacist services. One hundred percent of a PBM-negotiated manufacturer rebate must be passed to the plan for offsetting defined cost sharing and reducing premiums of covered persons. A PBM must meet or exceed certain network adequacy requirements that, among other things, do not steer patients to affiliated pharmacies and include offering contracts to specified health care facilities to administer pharmaceuticals and biological products on an outpatient basis. Additionally, the bill requires a PBM or plan to provide a 60-day continuity-of-care period upon revising a formulary of covered prescription drugs during a plan year so that the covered drug continues to be provided to the covered patient at the same cost during the 60-day period.

Contracts between a PBM and Network Pharmacy

The bill requires these contracts to require a PBM to provide a pharmacy with detailed information identifying a claim payment and any reconciliation transactions; prohibit financial clawbacks, retroactive recoupments, or other charges or withholding of fees; allow pharmacies to offer mail or delivery services on an opt-in basis; prohibit a PBM from unilaterally changing the terms of the contract; and require the PBM to provide an administrative process for a pharmacy to appeal the amount reimbursed for pharmacist services.

The PBM contracting provisions apply to all contracts that are executed or amended after July 1, 2023, which apply to pharmacy benefits beginning on or after January 1, 2024.

These provisions were approved by the Governor and take effect July 1, 2023.

Vote: Senate 40-0; House 118-0